## REMARKS/ARGUMENTS

Reconsideration and re-examination are hereby requested.

Claims 1-5 stand rejected under the judicially created doctrine of obviousness type double patenting over claims in U. S. Patent No. 6,061,274. Enclosed herewith is a terminal disclaimer to remove such rejection.

Claims 1-5 stand provisionally rejected under the judicially created doctrine of obviousness type double patenting over claim 1 of application no. 09/540,825. Enclosed herewith is a terminal disclaimer to remove such rejection.

Claim 1-5 stand rejected under 35 USC 103(a) as being unpatentable over Thibault (U. S. Patent No. 6,061,274) in view of Hoguchi and further in view of Hashemi. Enclosed herewith is a letter stating that that patent application Serial No. 09/680,156 filed October 5, 2000, and U. S. Patent No. 6,061,174, inventors Thibault et al, issued May 9, 2000 were, at the time the invention of application Serial No. 09/680,156 was made, owned by EMC Corporation. Thus, while Applicant respectfully disagrees with the Examiner's position as set forth in the Office Action mailed August 20, 2004, U. S. Patent No. 6,061,174 is not a reference under the provisions of 35 U. S. C. 103 (e).

Claims 1-5 stand rejected under 35 USC 103(a0 as being unpatentable over Nakayama et al (U. S. Patent No. 5,920,893) in view of Noguchi, in further view of Hashemi. The Examiner acknowledges that Nakayma does not teach that the messages by=pass the data transfer section. The Examiner refers to Noguchi as teaching that messages by-pass a data transfer section and refers to column 7, lines 31-34 and lines 41-43, below.

> (3) The bus installed in the switch for the transfer of data is implemented as an exclusive packet bus for packet data transfer and an exclusive message bus for non-packet data transfer. It has been customary to execute packet assembly/disassembly processing in a terminal line control unit so as to packetize all of the non-packet data without exception. Hence, only a packet bus for packet data transfer has been available for data transfer in a switch. Such a prior art switching procedure is time-consuming and increases the transmission delay time. The present invention with the two independent buses cuts down the switching time and thereby the transmission delay time.
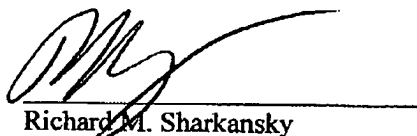
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It is respectfully submitted that nothing in the material referenced above describes or suggest having "messages by-pass the data transfer section". There is no recognition in Noguchi that while data passes through the data transfer section the message by-pass the data transfer section.

In the event any additional fee is required, please charge such amount to Patent and Trademark Office Deposit Account No. 05-0889.

Respectfully submitted,

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Date

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